

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

CURTIS LEROY FREEMAN.

Civil No. 08cv1421 J (RBB)

Petitioner,

WARDEN, MULE CREEK PRISON, et al.,

**ORDER TRANSFERRING ACTION
TO UNITED STATES DISTRICT
COURT FOR THE CENTRAL
DISTRICT OF CALIFORNIA,
EASTERN DIVISION**

Petitioner is a state prisoner proceeding with a habeas corpus action filed pursuant to 28 U.S.C. § 2254 attacking a conviction from the Superior Court of Riverside County, California. Petitioner has also filed an application to proceed in forma pauperis. Upon reviewing the petition, the Court finds that this case should be transferred in the interest of justice. Thus, this Court does not rule on Petitioner's in forma pauperis status.

A petition for writ of habeas corpus may be filed in the United States District Court of either the judicial district in which the petitioner is presently confined or the judicial district in which he was convicted and sentenced. *See* 28 U.S.C. § 2241(d); *Braden v. 30th Judicial Circuit Court*, 410 U.S. 484, 497 (1973). The application in the present matter attacks a conviction in the Superior Court of Riverside County, California, which is within the jurisdictional boundaries of the United States District Court for the Central District, Eastern

111

1 Division. *See* 28 U.S.C. § 84(c)(1). Moreover, Petitioner is presently confined at Mule Creek
 2 State Prison, which is located in Amador County and is within the jurisdictional boundaries of
 3 the United States District Court for the Eastern District of California. *See* 28 U.S.C. § 84(b).
 4 Thus, jurisdiction exists in the Central or Eastern District; and not in the Southern District.

5 Although this Court does not have jurisdiction over the action, “[u]nder a provision of the
 6 Federal Courts Improvement Act, 28 U.S.C. § 1631, if a court finds that there is a want of
 7 jurisdiction the court shall transfer the action to any other such court in which the action could
 8 have been brought ‘if it is in the interest of justice.’” *Miller v. Hambrick*, 905 F.2d 259, 262 (9th
 9 Cir. 1990) (citing *In re McCauley*, 814 F.2d 1350, 1351-52 (9th Cir. 1987)). The Ninth Circuit
 10 has held that transferring a habeas corpus proceeding to a district with proper jurisdiction will
 11 be in the interest of justice because normally dismissal of an action that could be brought
 12 elsewhere is “time-consuming and justice-defeating.” *Miller*, 905 F.2d at 262 (quoting
 13 *Goldlawr, Inc. v. Heiman*, 369 U.S. 463, 467 (1962)). Therefore, pursuant to 28 U.S.C. § 1631,
 14 this Court may transfer this proceeding to a district with proper jurisdiction under 28 U.S.C.
 15 § 2241(d).

16 When a habeas petitioner is challenging a state conviction, the district court of the district
 17 in which a petitioner was convicted and sentenced is a more convenient forum because of the
 18 accessibility of evidence, records and witnesses. Thus, it is generally the practice of the district
 19 courts in California to transfer habeas actions challenging a state conviction to the district in
 20 which the Petitioner was convicted. Any and all records, witnesses and evidence necessary for
 21 the resolution of Petitioner’s contentions are more readily available in Riverside County, which
 22 is thus a more convenient forum. *See Braden*, 410 U.S. at 497, 499 n.15 (stating that a court can,

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 of course, transfer habeas cases to the district of conviction which is ordinarily a more
2 convenient forum); *Laue v. Nelson*, 279 F. Supp. 265, 266 (N.D. Cal. 1968).

3 Therefore, in the furtherance of justice, **IT IS ORDERED** that the Clerk of this Court
4 transfer this matter to the United States District Court for the Central District of California,
5 Eastern Division. *See* 28 U.S.C. § 2241(d). **IT IS FURTHER ORDERED** that the Clerk of
6 this Court serve a copy of this Order upon Petitioner and upon the California Attorney General.
7

8 DATED: August 21, 2008

9
10 HON. NAPOLEON A. JONES, JR.
11 United States District Judge

12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT

Southern District Of California
Office Of The Clerk
880 Front Street, Room 4290
San Diego, California 92101-8900
Phone: (619) 557-5600
Fax: (619) 702-9900

W. Samuel Hamrick, Jr.
Clerk of Court

August 21, 2008

Office of the Clerk
Central District of California Eastern Division
3470 Twelfth Street
Riverside, CA 92501-3801

Re: Freeman v. Warden et al, Case No. 08-cv-01421-J (RBB)

Dear Sir or Madam:

Pursuant to Order transferring the above-entitled action to your District, we are transmitting herewith our entire file.

Thank you.

Sincerely yours,

W. Samuel Hamrick, Jr.
Clerk of Court

By: s/ A. Wooden, Deputy

Copy to Attorney for Plaintiffs:

Copy to Attorney for Defendants: